REMARKS

Claims 1-22 are pending. Claim 5 and the specification is amended with this response. Reconsideration of the application is respectfully requested for at least the following reasons.

I. REJECTION OF CLAIMS 3, 5, 15, 16, 18-20, AND 22 UNDER 35 U.S.C. § 112

Claim 3 is rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter the applicant regards as the invention. Withdrawal of the rejection of claim 3 is respectfully requested for at least the following reasons.

The Final Office Action states that "a steady state time period of 1 second" as found in claim 3 "is not enabled by the specification. An explanation of the use of the steady state time period can be found on page 13, lines 15-19 in the specification. The specification is amended, as described above, to include: "In one embodiment, a steady state time period of 1 second can be selected." Support for amending the specification can be found in the language of claim 3. Therefore, because the amended specification enables the language of claim 3, withdrawal of the rejection is respectfully requested.

Claims 5, 15, 16, and 18-20 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter the applicant regards as the invention. Withdrawal of the rejection of claims 5, 15, 16, and 18-20 is respectfully requested for at least the following reasons.

The Final Office Action states the term "about" in claim 5 renders the claim indefinite. Claims 3, 5, 9 and 22 were previously amended to remove the term "about"; however, a second "about" was inadvertently overlooked by the previous amendment. Claim 5 is amended, above, to remove the term "about." Amending claim 5 by removing the term "about" is consistent with the previous amendment and would not change the scope of the claim. As such, no new search for prior art would be required.

Therefore, claim 5 is believed to be definite, and withdrawal of the rejection of claim 5 is respectfully requested.

Further, the Final Office Action alleges that "[i]n claim 15, the limitation beginning with setting an IPG is confusing and unclear as written." As described in the previous response to the previous office action, the applicant respectfully disagrees with this assertion. The term "setting" is a common term and has a commonly understood meaning to those skilled in the art. It is the present participle of the verb "set", which means, to put into a specified state. The specification supports this interpretation, at page 17, lines 19-20, where it states, "the IPG modified value is set to the IPG current value." Here the invention of claim 15 is putting an IPG modified value into the specified state of the IPG current value. As such, claim 15 is believed to be definite in its present form, and no amendment is deemed necessary.

In the alternate, if the Final Office Action is alleging that the entire recitation "setting an IPG modified value to the IPG current value on the current collision count being less than that associated with the IPG modified value," found in claim 15 is confusing and unclear as written, we respectfully disagree. The claim language states that the method sets the IPG modified value (setting an IPG modified value) to the IPG current value (*e.g.*, IPG modified value = IPG current value) ***on the current collision count being less than that associated with the IPG modified value. In this recitation, the term "on" is equivalent to "upon."*** The use of the term "on" in this manner has a commonly used and well understood meaning by those skilled in the art.

This interpretation is supported by the definition of "on' in the current edition of the Webster's Dictionary, where "[on can be] used as a function word to indicate … an instant, action, or occurrence when something begins or is done: *on* cue; *on* arriving home, I found your letter." This interpretation is further supported by the specification at page 17, lines 18-20, wherein it states, "On the current collision count being less than a collision count for an IPG modified value, the IPG modified value is set to the IPG current value." The specification makes it clear that the term "on" is used to indicate an occurrence when something begins or is done (*e.g.*, as in, on arriving home…).

Further, according to the current North American Encarta Dictionary, the core meaning of the term "upon" is "the same as 'on,' but is more formal." Additionally, the language in the specification, on lines 18-20 on page 17, simply restates the language of claim 15, in an enabling manner.

Therefore, the claim language of claim 15 is not "confusing and unclear," but is fully supported by recognized sources and the specification, as described above. Consequently, dependent claims 16 and 18-20 are believed to be in a condition for allowance. Therefore withdrawal of the rejection of claim 15 and its dependent claims is respectfully requested. If the rejection is maintained, we respectfully request a specific explanation as to why the claim language is indefinite and confusing.

II. REJECTION OF CLAIMS 1, 2, 4, 6, 8-11, and 13-21 UNDER 35 U.S.C. § 102(b)

Claims 1, 2, 4, 6, 8-11, and 13-21 are rejected under 35 U.S.C. §102(b) as being anticipated by Ramakrishnan (US 5,418,784). Withdrawal of the rejection is respectfully requested for at least the following reasons.

Please note the following citations concerning claims rejected under 35 U.S.C. §102(b) when considering withdrawal of the rejection:

> A single prior art reference anticipates a patent claim only if it ***expressly or inherently describes each and every limitation set forth in the patent claim.*** Trintec Industries, Inc. v. Top-U.S.A. Corp., 295 F.3d 1292, 63 USPQ2d 1597 (Fed. Cir. 2002); *See* Verdegaal Bros. v. Union Oil Co. of California, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). ***The identical invention must be shown in as complete detail as is contained in the claim.*** Richardson v. Suzuki Motor Co., 868 F.2d 1226, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989) (emphasis added).

i. Ramakrishnan does not disclose a determiner that generates an IPG value that is a function of programmable parameters, as in the claims 1, 10 and 13.

Claims 1, 10 and 13 were rejected under 35 U.S.C. § 102(b) as being anticipated by Ramakrishnan. Withdrawal of the rejection of claims 1, 10, 13, and their respective

dependent claims is respectfully requested for at least the following reasons. The invention of amended claim 1 specifically states that a dynamic determiner generates an IPG value that is a function of a collision count and **programmable parameters**, which include at least one of: a range of IPG values; a convergence time; and a stable state time. As required under Trintec Industries, Inc. v. Top-U.S.A. Corp., 295 F.3d 1292, 63 USPQ2d 1597 (Fed. Cir. 2002), a single prior art reference must expressly or inherently describe each and every limitation set forth in the patent claim in order to anticipate a patent claim. Ramakrishnan does not use **programmable parameters** to generate an IPG value, therefore each and every limitation set forth in the patent claim is not expressly or inherently described by the reference.

Further, **Ramakrishnan does not "expressly or inherently describe" using programmable parameters** and collision counts to generate an IPG. Further, as required under Richardson v. Suzuki Motor Co., 868 F.2d 1226, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989), the identical invention must be shown in as complete detail as is contained in the claim to anticipate the claim. Here, **the identical invention, is not "shown in as complete detail"** in Ramakrishnan as contained in amended claim 1, as Ramakrishnan does not use **programmable parameters** to generate an IPG value.

The claims 1, 10 and 13 detail dynamically generating an IPG values that are a function of collision counts and programmable parameters. On page 4, lines 21-24, the specification states, "these multiple stations can be controlled and programmed by a network coordinator that sets programmable parameters for dynamic IPG generation of each station so as to even further improve overall network throughput." The specification is clearly defining programmable parameters as those that a network coordinator can set (program), for dynamic IPG generation, to improve network throughput. Further, on page 15, lines 21-23 (and page 17, lines 2-3), the specification states, "[t]he method employs programmable parameters so that the method can be tailored to differing implementations." Again, this reference shows that programming the parameters can be used to tailor the system, as is a common use of programmable parameters. Additionally, on page 17, lines 10-12, the specification states, "the

programmable parameters are set or programmed." Once again describing how the parameters are "programmed."

In contrast, the Ramakrishnan reference does not disclose or suggest **programmable parameters**, and consequently, does not include programmable parameters when generating an IPG value. In Ramakrishnan, the parameters alleged by the Final Office Action as being somehow equivalent to the programmable parameters of the invention of claim 1, 10, and 13, are not programmable as defined by the specification. Ramakrishnan describes automatically selecting an IPG interval by "progressively increas[ing] the IPG interval ... until another node has successfully transmitted a packet of data" (column 6, lines 43-46). Further, Ramakrishnan "then computes ... the extended IPG as a linearly increasing value given by 9.6+10(N+1) μs" (column 8, lines 41-43). These indicate that the IPG value as an alleged parameter is automatically generated based collision detection, and is not programmable as defined by the applicant's specification, as described above.

Additionally, the Final Office Action alleges that the applicant's "stable state time" programmable parameter is equivalent to Ramakrishnan's "slot time." However, the stable state time is "a period for which IPG values obtained remain programmed in the network device without modification" (page 15, lines 29-31). In contrast, Ramakrishnan's slot time is "the maximum round-trip propagation time for the network. i.e. the time to propagate a data packet from one end of the network to the other, and back" (column 1, lines 52-55).

Further, the Final Office Action alleges that the applicant's "convergence time" programmable parameter is equivalent to Ramakrishnan's "time after collision." However, the convergence time is "the time period for which the dynamic determiner is permitted to obtain an improved IPG value" (page 12, lines 18-21), not a time after collision as alleged by the Final Office Action.

As described above, **the alleged Ramakrishnan parameters are not programmable parameters as defined by the applicant's specification**. Therefore,

the Ramakrishnan reference does not use the programmable parameters as described in claims 1, 10 and 13 to modify the function when generating an IPG value.

Therefore, Ramakrishnan does not disclose all aspects set forth in claims 1, 10, and 13. Accordingly, withdrawal of the rejection of claims 1, 10, 13 and their respective dependent claims is respectfully requested.

ii. Ramakrishnan does not disclose or suggest using a convergence time, or a stable state time, for generating IPG values, as set forth in claims 8 and 17.

Claims 8 and 17 were rejected under 35 U.S.C. § 102(b) as being anticipated by Ramakrishnan. **Withdrawal of the rejection of claims 8 and 17 is respectfully requested** for at least the following reasons. The invention of claims 8 and 17 state that a dynamically generated IPG value is a function of an IPG range, a step value, a convergence time, ***and*** a stable state time. The language of these claims provides that the dynamically generated IPG value is a function of all of the limitations described. In contrast, as described above, **Ramakrishnan does not "expressly or inherently describe" using an either a convergence time, or a stable state time** for these functions. Further, **the identical invention is not "shown in as complete detail"** in Ramakrishnan, as contained in claims 8 and 17. The Office Action alleges that, because the formula in Ramakrishnan calculates IPG values, this is analogous. However, the formula does not include parameters for both a convergence time, and a stable state time. Therefore, because Ramakrishnan does not disclose all aspects set forth in claims 8 and 17, we respectfully request withdrawal of the rejection of claims 8 and 17.

III. REJECTION OF CLAIMS 3 and 22 UNDER 35 U.S.C. § 103(a)

Claims 3 and 22 were rejected under 35 U.S.C. §103(a) as being unpatentable over Ramakrishnan. As discussed above, **we do not concede that Ramakrishnan meets all the limitations of the parent claims**. Therefore, we respectfully request withdrawal of the rejection of claims 3 and 22.

Further, the Final Office Action alleges that the feature in these claims, namely the steady state time (and the equivalent stable state period as described in page 14, lines 15-17), is equivalent to Ramakrishnan's time between detected collisions. As described above, these are not describing the same things. The applicant's specification clearly defines steady state time as "the time period for which the dynamic determiner is permitted to obtain an improved IPG value" (page 12, lines 18-21), which is not determined by a time between collisions, but can be a programmed parameter, as described above and defined in the applicant's specification. Therefore, there is no 35 U.S.C. §103(a) basis for rejection of claims 3 and 22 as alleged by the Final Office Action, and withdrawal of the rejection of claims 3 and 22 is respectfully requested.

VIII. CONCLUSION

For at least the above reasons, the claims currently under consideration are believed to be in condition for allowance.

Should the Examiner feel that a telephone interview would be helpful to facilitate favorable prosecution of the above-identified application, the Examiner is invited to contact the undersigned at the telephone number provided below.

Should any fees be due as a result of the filing of this response, the Commissioner is hereby authorized to charge the Deposit Account Number 50-1733, AMDP771US.

Respectfully submitted,
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